IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 148 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAJID GULAM HADGA

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioners

MR KP RAVAL, ADDL. PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 21/03/2000

ORAL JUDGEMENT

1. This is an application under Article 227 of the Constitution read with Article 21 of the Constitution, at the instance of the four original accused.

2. The accused are named as such in Sessions Case No.110/92 which is pending in the Court of Additional Sessions Judge, Gondal. The said sessions case is a cross case to Sessions Case No.150/92.

In Sessions Case No.110/92, the accused gave an application exh.22 setting out the following facts :-

That the applicants are accused in the said sessions case, which is pending since almost eight years. The accused were committed and the case was sent to the Sessions Court by order dated 26th April 1992.

The accused then set out their personal, family, social and health problems, to support their request that the sessions case be tried expeditiously. This application was given on 15th January 2000.

3. The Sessions Judge while dealing with the simple request for expeditious hearing of a sessions case, fixed it for hearing on 15th January 2000, gave a protracted hearing to the parties, and decided this simple issue by a ten page order only on 11th February 2000.

4. It is pertinent to note that there are no obstacles to the expeditious hearing of the said case. The application was not objected to by the prosecution even before the Sessions Court. It is also relevant to note that the learned counsel for the complainant tactfully evaded his responsibility by saying that he has nothing to add beyond what is stated by the original complainant in the pursis exh.24. This pursis exh.24 is apparently given under the signature of the original complainant, wherein he has stated that he does not with to proceed with the case upto 30th April 2000.

The learned Sessions Judge has also taken note in para 22 of his order that the complainant has produced nothing on record to show why he is not willing to proceed with the case before 30th April 2000, let alone produce any justification for this delay.

In para 23 of the order, the learned Sessions Judge has also observed that except for the original complainant, all the other parties including the prosecution are willing to go on with the hearing of the case, and not only that, the Sessions Court has the time to proceed with sessions cases even before the end of April 2000. Inspite of recording these facts, the Sessions Court has not found a single reason why the case

cannot proceed on an expeditious basis. By the impugned order, the Sessions Court has merely rejected the application for expeditious hearing.

5. Such an act, in the opinion of this Court, is merely abdication of the Court's responsibility to proceed with criminal trials on an expeditious basis. The impugned order is therefore clearly unjustified and in fact amounts to violation of the constitutional rights of an accused to proceed with the trial on an expeditious basis.

6. The impugned order below exh.22 is therefore quashed and set aside. The learned Sessions Judge is directed to take up the hearing of Sessions Case No.110/92 [together with Sessions Case No.150/92, if necessary] on an expeditious basis, and to hear and decide the same as expeditiously as possible, on a day to day basis, if possible, and in accordance with priority accorded to it in terms of its age and pendency.

Direct service is permitted.

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